

FILED
JAMES BONINI
CLERK

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

04 MAY -6 PM 4:41
U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

EARL G. SCHNEIDER,

Plaintiff,

v.

MRS ASSOCIATES,

Defendant.

CASE NO. 04 357

JUDGE:
JUDGE MARBLEY

MAGISTRATE JUDGE:
MAGISTRATE JUDGE ABEL

COMPLAINT FOR DAMAGES

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer as a result of defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq. (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d) and 28 U.S.C. §1331. Venue in this District is proper in that the defendant transacts business here and the conduct complained of occurred here.

III. PARTIES

3. Plaintiff, Earl G. Schneider, Jr., is a natural person residing in Glenford, Ohio.

4. Defendant, MRS Associates, is engaged in the business of collecting debts in this state with its principal place of business located at 6530 West Campus Oval, New Albany, Ohio 43054.
5. The principal business of defendant MRS Associates is the collection of consumer debts using the mail and telephone.
6. Defendant MRS Associates regularly collects or attempts to collect consumer debts due or alleged to be due another.

IV. FACTS

7. Earl G. Schneider, Jr. entered into an agreement with Household Automotive Finance Corp., to borrow money for purposes of purchasing a used 1998 Mercury Grand Marquis to be used for personal transportation.
8. Household Automotive Finance Corp. later hired MRS Associates to collect an amount allegedly owed it by Mr. Schneider from the consumer loan.
9. Although MRS Associates was notified on or before March 18, 2004 that Mr. Schneider is represented by an attorney with respect to the alleged debt, the collection agency continues to call Mr. Schneider's home more than once per week in an attempt to collect the debt.

V. FIRST CAUSE OF ACTION

10. Defendant's collection practices are subject to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.*
11. Defendant is prohibited from communicating with a consumer in connection with the collection of a debt, if defendant has knowledge the consumer is represented by

attorney with respect to the debt, and has knowledge or can readily ascertain the attorney's name and address. 15 U.S.C. §1692c(a)(2).

12. Defendant has known plaintiff was represented by an attorney with respect to the alleged consumer debt since as early as March 18, 2004. *See plaintiff's exhibits 1 and 2.*
13. Defendant also had knowledge of the attorney's name and address through telephone conversations and letters.
14. Despite having knowledge that plaintiff is represented by an attorney, defendant continues to call plaintiff in an attempt to collect the alleged debt.
15. As a result, Mr. Schneider is entitled to statutory damages, and reasonable costs and attorneys' fees.

VI. SECOND CAUSE OF ACTION

16. Defendant MRS Associates engages in the business of effecting consumer transactions, and, therefore is a "supplier" under Ohio Rev. Code §1345.01(C).
17. Plaintiff Earl G. Schneider, Jr. is a "consumer" under Ohio Rev. Code §1345.01(D).
18. The transaction between plaintiff and defendant is a "consumer transaction" under R.C. §1345.01(A). *Broadnax v. Greene Credit Service* (5th Dist. 1997), 118 Ohio App. 3d 881, PIF#1808; *Gatto v. Frank Nero Auto Lease* (8th Dist. 1999), 1999 WL 195664, PIF # 1812.
19. In connection therewith, defendant knowingly committed acts or practices violating the prohibitions of R.C. §1345.02 and/or R.C. §1345.03, including but not limited to acts or practices prohibited by the Ohio Administrative Code and/or acts or practices declared to violate the CSPA by judicial decisions placed on file with the office of Ohio's Attorney General prior to the events in question.

20. These violations of law have injured plaintiff, entitling him to relief available under R.C. §1345.09.
21. Defendant's liability under Chapter 1345 is both cumulative and in addition to any recover to which is entitled under any other cause of action. *Crye v. Smolack, d.b.a. Jerry's Auto. Trans.* (10th Dist. 1996), 110 Ohio App.3d 504. *Ries v. B&J Auction House, Inc.* (5th Dist. 1989), 1989 WL 23611.

VII. DEMAND FOR RELIEF

WHEREFORE, plaintiff respectfully requests that judgment be entered against the defendant for the following:

- A. Actual damages; and
- B. Statutory damages pursuant to 15 U.S.C. §1692k(2)A and Ohio Rev. Code §1345.09; and
- C. Costs and reasonable attorneys' fees pursuant to 15 U.S.C. §1692k(3) and O.R.C. §1345.09; and
- D. For such other and further relief as may be just and proper.

Respectfully submitted,

GRAHAM ♦ McCLELLAND ♦
RANSBOTTOM, CO., L.P.A.



Amy E. Gullifer (0074218)
P.O. Box 340
Zanesville, Ohio 43702
Telephone: (740) 454-8585
Facsimile: (740) 454-0111

Graham ♦ McClelland ♦ Ransbottom

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740-454-8585

James W. Ransbottom
Stephen R. McCann
J. William Merry
Dean L. Wilson

March 17, 2004

VIA Facsimile (614) 289-5070

MRS Associates
6530 West Campus Oval
Suite 100
New Albany, OH 43054

Attn: Michele Walters

Re: *Earl G. Schneider, Jr.*
Account No. 944342

Dear Ms. Walters:

On this date, we contacted you to inquire the nature of the call you made to our client, Earl Schneider without our expressed permission. We requested you provide us with your address, which you refused to give, and you advised his account will be going to "litigation" today and hung up.

This letter will serve as notice to you not to contact our client directly. Any and all questions or information you require is to be requested through this office.

I have previously requested you forward all copies of agreements, notices, account statements and all litigation filed against him, if any, to this office for our review. Please forward that information to this office as soon as possible.

Very truly yours,

Gary M. Smith

cc: Earl G. Schneider, Jr.

Graham ♦ McClelland ♦ Ransbottom Co., L.P.A.

1-800-621-8585 • FAX 740-454-0111

Roseville Office: 315 Zanesville Road • Roseville, Ohio 43777
740-697-0290



TRANSACTION REPORT

MAR-17-2004 WED 03:02 PM

FOR: GRAHAM MCCLELLAND LAW

740 454 0111

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March 22, 2004

VIA Facsimile (614) 289-5070
and Certified Mail/Return Receipt
MRS Associates
6530 West Campus Oval
Suite 100
New Albany, OH 43054

Attn: Jason Stang, Manager

Re: *Earl G. Schneider, Jr.*
Account No. 944342

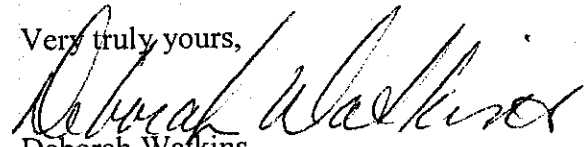
Dear Mr. Stang:

This letter will confirm our telephone conversation of this date wherein you indicated that neither your client or your office are in possession of copies of agreements, notices and/or account statements in regard to Mr. Snyder's repossession. This letter will also confirm that you hung up the telephone with the comment "you are a complete waste of time" when I attempted to discuss this matter with you.

I then received a voice mail message at 11:26 a.m. indicating that it would be a "complete waste of time" to forward any documents we are requesting since "your client already has the documents" and you demanded to speak to "my boss" immediately.

This letter will again serve as notice to you not to contact our client directly. Whether or not you feel it is a complete waste of time, we again request copies of agreements, notices and/or account statements with regard to this matter. It is impossible to discuss this matter with you unless we have the documents concerning the claims you are asserting.

Very truly yours,

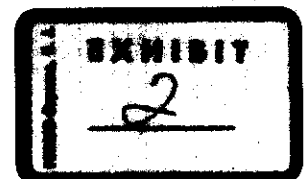

Deborah Watkins
Paralegal

cc: Earl G. Schneider, Jr.

Graham ♦ McClelland ♦ Ransbottom Co., L.P.A.

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MAR-22-2004 MON 03:58 PM

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March 22, 2004

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MRS Associates
6530 West Campus Oval
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New Albany, OH 43054

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Account No. 944342

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